The CISG Advisory Council:
A Model to Improve Uniform Application of the CMR?

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How to avoid discrepancies in the application of the CMR?

The CMR: a uniform law convention

- **Content**: set of rules on carriage of goods by road which should be applied identically in the State Parties

- **Aim**:
  - avoiding differences in treatment of the operators involved in international situations.
  - developing international trading.
Limits to uniform interpretation of the CMR

- lack of international court in charge of ruling on such conventions (or at least in charge of uniform interpretation)

Consequence: litigations treated by domestic courts

- High risk of discrepancies, especially when a provision of the convention is subject to interpretation.

- Inefficiency of the recourse to the CIJ: CMR, Article 47

Possible remedies

- Formal remedies:
  - Creation of a supra-national jurisdiction
  - Amendment of the convention
  - ...

- Informal remedies:
  - Information: case law databases
  - training
  - non official interpretation committees
Remedies: non official interpretation committees?

2 actual experiences:

✓ Hague conventions: Article 8 paragraph 2 of the Status of the Hague conference provides for 'special committees' …
  ➢ Interpretative recommendations

✓ CISG-Advisory Council:
  “How soft law may influence case law?”

Remedies: non official interpretation committees?

I – Example of an informal remedy to improve uniform application of the CMR:
  Presentation of the CISG Advisory Council

II – A "CMR Advisory Council"?
I – Presentation of the CISG Advisory Council

• **Scope and Aims**: “The CISG-AC is a private initiative which aims at promoting a uniform interpretation of the CISG”.

• **Modalities**: issue of **worldwide authoritative opinions** for the uniform application and interpretation of the CISG.

  ↔ **Legal ground**: art. 7 CISG: regard to international character of the Convention and the need to promote uniformity.

  + multinational and multi-lingual character of the CISG.

• **Authors of the opinions**: panel of around 10 scholars, from different countries, **BUT who do not represent countries or legal cultures**.

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I – Practical functionning:

- Two meetings each year
- List of issues (request by third parties or self-referral)
- Appointment of a rapporteur: draft
- An opinion takes about 2 years to be issued

• **Effect of the opinions**

  ➢ **No legal value; purely authoritative/persuasive**

  ➢ **BUT**: sometimes referred to by domestic courts dealing with the CISG: *BGH, 28 May 2014*: applied the opinion n°13

    "Inclusion of Standard Terms under the CISG"
II – A "CMR Advisory Council"?

3 necessary conditions:

• The initiative
• The panel's composition
• The material conditions

II – A "CMR Advisory Council"?

• The initiative
  ➢ A reputed scholar (or Research Center) specialized in international carriage of goods by road

• The panel's composition
  ➢ 10 scholars from different countries with a high expertise and reputation in this field + independence & impartiality

• The material conditions
  ➢ Expenses: travel and accommodation expenses; collection and dissemination of information: website; promotion
  ➢ What funding?
II – A "CMR Advisory Council"?

**Conclusion**: Let's do it? 😊

**My question**:

*Do you think such a council would be relevant to improve the uniform application of the CMR?*